

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAY 15 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

DOCKET FILE COPY ORIGINAL

Cellular Services and Other Commercial
Mobile Radio Services in the Gulf of
Mexico

WT Docket No. 97-112

Amendment of Part 22 of the Commission's
Rules To Provide for Filing and Processing
of Applications for Unserved Areas in the
Cellular Service and To Modify Other
Cellular Rules

CC Docket No. 90-6

SUPPLEMENTAL COMMENTS OF GTE SERVICE CORPORATION

Andre J. Lachance
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036
(202) 463-5276

Katherine M. Harris
Nicole M. McGinnis
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
Irving, Texas 75038
(972) 718-6969

Their Attorneys

May 15, 2000

No. of Copies rec'd
List ABCDE

074

TABLE OF CONTENTS

SUMMARY	iii
I. NEITHER THE CURRENT RULES NOR THE RULES PROPOSED IN THE SECOND FNPRM SERVE THE PUBLIC INTEREST.	3
A. Neither the Current Rules Nor the Proposed Rules Allow Land-Based Cellular Carriers To Provide Reliable Service to Their Licensed Service Areas.....	3
B. Under the Current and Proposed FCC Rules, Gulf-Based Providers Have Both the Ability and the Incentive To Create Unserved Area in Land Markets and Extend Contours Onto the Land To Steal Land-Based Customers.	8
C. The Current and Proposed Cellular Rules Establish an Uneven Playing Field Between Cellular and Other CMRS Providers.	10
II. GTE ENDORSES THE ALLTEL PROPOSAL FOR FACILITATING THE PROVISION OF CELLULAR SERVICE IN THE GULF	11
III. THE JOINT PROPOSAL DEVELOPED BY PETROCOM AND U.S. CELLULAR IS UNACCEPTABLE.	14
A. The Commission Should Not Permit Both Land and Gulf Carriers To Operate at the Coastline With SAB Contours Modeled Upon the Land-Based Formula Set Forth in Section 22.911(a)(1).....	14
B. The Commission Should Not Adopt the Proposal To Permit Equalization of Signal Strength at the Market Boundary.....	16
C. The Coastline Should Only Be Retained as the Market Boundary Between Gulf and Land-based Carriers If the ALLTEL Proposal Is Adopted.....	17
D. GTE Generally Supports Retaining the Requirement That a Carrier Cannot Place a Transmitter Outside Its Market Area Without the Adjacent Licensee's Consent	18

E.	GTE Opposes the Proposal To Grant the Gulf Carriers Another Five Years To Build Out and To Give Them <i>De Facto</i> Reclamation Rights <i>Vis-à-Vis</i> Extensions Into the Gulf by Land-Based Carriers	18
F.	The Joint Proposal Declines To Address the Significant Problem of Roaming Rates.	20
IV.	CONCLUSION	20

SUMMARY

As the Commission is well aware, the FCC's current cellular licensing and service policies in the Gulf of Mexico have presented numerous difficulties for both land-based and water-based cellular carriers. Unfortunately, these difficulties have been "resolved" through contentious filings between carriers and decreased quality of cellular service to land-based customers. The Second Further Notice of Proposed Rule making ("Second FNPRM") provides the Commission with a very welcome and overdue opportunity to address these issues and to craft a new set of policies that will permit cellular carriers to serve their customers satisfactorily and reliably. GTE submits these comments in the interest of improving cellular service to customers in the Gulf area, including those using cellular service in areas adjacent to the Gulf.

As detailed in these supplemental comments, neither the current rules nor the proposed rules in the Second FNPRM will promote the public interest and permit land-based carriers to operate effectively within their licensed areas. The current rules effectively prohibit any extensions by land-based carriers into the Gulf of Mexico waters of co-channel licensees. Accordingly, GTE has pulled back the service area boundaries for several of its cell sites, resulting in an overwhelming influx of customer complaints and service cancellations. These complaints are the results of GTE's inability to provide acceptable service levels *within* GTE's licensed area; the current and proposed rules do not permit land-based carriers to generate adequate signal strength at the market boundary to guarantee reliable service within their cellular geographic service areas. Indeed, the proposed rules would only perpetuate this situation, as

would the proposed “solution” developed by Petroleum Communications, Inc. and U.S. Cellular Corp. As GTE explains in these comments, these proposals continue to permit—even facilitate—land-based subscriber capture by water-based carriers.

GTE supports adoption of the alternative solution provided in ALLTEL Corporation’s concurrently filed comments. Unlike the current and proposed rules, ALLTEL’s solution will provide land-based licensees with a real opportunity to provide satisfactory service within their licensed areas. ALLTEL’s alternative solution would coordinate with the Commission’s proposed creation of a “Coastal Zone.” Under the ALLTEL proposal, the Coastal Zone would not be licensed separately, however, but would provide an area where both land-based and water-based carriers could expand their service areas, subject to frequency coordination and sound engineering practices. Additionally, service in the Coastal Zone would not receive interference protection. GTE is confident that ALLTEL’s solution would address the substantive concerns of both land-based and water-based carriers. ALLTEL’s proposal would ensure that land-based carriers can generate adequate signal strength to provide satisfactory service all the way up to their market boundary. By the same token, under ALLTEL’s proposal, water-based carriers would be assured of the freedom to relocate their cell sites in response to the movement of oil platforms. Accordingly, GTE strongly urges the Commission to adopt ALLTEL’s proposal, which will permit cellular carriers to provide satisfactory service within the entirety of their licensed service areas and which will redress—at long last—the many frustrations that have plagued cellular carriers in the Gulf of Mexico.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Cellular Services and Other Commercial)	WT Docket No. 97-112
Mobile Radio Services in the Gulf of)	
Mexico)	
)	
Amendment of Part 22 of the Commission's)	CC Docket No. 90-6
Rules To Provide for Filing and Processing)	
of Applications for Unserved Areas in the)	
Cellular Service and To Modify Other)	
Cellular Rules)	

SUPPLEMENTAL COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation, on behalf of its telephone and wireless subsidiaries ("GTE"), hereby respectfully submits these supplemental comments in response to the Commission's Second Further Notice of Proposed Rule Making in the above-captioned proceeding ("Second FNPRM").¹ In the Second FNPRM, the Commission seeks comment on proposed rules governing cellular licensing and operational issues in the Gulf of Mexico Service Area ("GMSA"). GTE agrees that a review—and, more

¹ In the Matter of Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, WT Docket No. 97-112; Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Application for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Second Further Notice of Proposed Rule Making*, FCC 97-110 (rel. Apr. 16, 1997) ("Second FNPRM"). See Public Notice, "Federal Register Publication of the Second Further Notice of Proposed Rulemaking Regarding the Licensing of Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico," DA 00-687 (March 27, 2000) (noting failure to publish Second FNPRM in the *Federal Register* and reopening the pleading cycle).

importantly, a revision—of current Commission rules regarding cellular operations in the Gulf of Mexico and adjacent land markets is in order.

GTE previously submitted comments in response to the initial release of the Second Further Notice of Proposed Rule Making.² In addition, GTE has met with members of the Commission's staff on numerous occasions to discuss issues pertaining to cellular service in the Gulf of Mexico and adjacent land markets in the context of this rulemaking proceeding.³ These supplemental comments are not a reiteration of GTE's previous filings, but instead address issues and developments that have arisen in the last three years in connection with cellular operations in the Gulf. Subsequent to the filing of its initial comments, GTE has refined its proposal for licensing and operations in the Gulf of Mexico. As described below, GTE is confident that the Commission's proposed rules will not further the public interest in the Gulf; on the contrary, the proposed rules will disadvantage land-based cellular providers *vis-à-vis* water-based carriers, as well as other CMRS providers, without providing commensurate counterbalancing public interest benefits. GTE instead recommends that the Commission adopt the proposal being offered by ALLTEL Corporation to permit

² See Comments of GTE Service Corporation (filed July 2, 1997) ("GTE Comments"); Reply Comments of GTE Service Corporation (filed Aug. 4, 1997) ("GTE Reply Comments").

³ See, e.g., *Ex Parte* letter from Carol L. Bjelland, Director, Regulatory Matters, GTE, to William F. Caton, Acting Secretary, FCC (filed Oct. 16, 1997); *Ex Parte* letter from Carol L. Bjelland, Director, Regulatory Matters, GTE, to William F. Caton, Acting Secretary, FCC (filed Nov. 18, 1997); *Ex Parte* letter from Whitney Hatch, Vice President, Regulatory Affairs, GTE, to Magalie R. Salas, Secretary, FCC (filed Mar. 6, 1998); *Ex Parte* letter from May Chan, Director, Regulatory Affairs, GTE, to Magalie R. Salas, Secretary, FCC (filed Mar. 19, 1998).

both land-based and Gulf carriers to extend into the Commission's proposed "Coastal Zone" consistent with the standards of good engineering practice.

I. NEITHER THE CURRENT RULES NOR THE RULES PROPOSED IN THE SECOND FNPRM SERVE THE PUBLIC INTEREST.

The Commission's current rules and proposed rules severely limit cellular carriers' ability to provide customers with reliable service along beachfront and other areas abutting the Gulf of Mexico. Both the current and proposed rules inhibit service to land-based customers by limiting the signal strength at beachfront areas and by providing Gulf-based carriers with both the ability and the incentive to force land-based cellular carriers to leave unserved area on land that the Gulf carriers can then apply to serve. Moreover, these gaps in cellular coverage eliminate the ability of customers to reach emergency 911 services when required, a result clearly not in the public interest. In addition, both the current and proposed rules establish an uneven playing field between land-based cellular providers and other CMRS carriers, disrupting the provision of ubiquitous cellular coverage to GTE customers.

A. Neither the Current Rules Nor the Proposed Rules Allow Land-Based Cellular Carriers To Provide Reliable Service to Their Licensed Service Areas.

The current Commission rules for land-based cellular providers do not consider the unique problems of providing service in markets adjacent to the Gulf of Mexico. Indeed, the current FCC rules require land-based cellular carriers to have no contour—not even a minor, *de minimis* extension—into the Gulf of Mexico (unless they can obtain consent from the Gulf carrier operating on the same frequency block). Thus, the outer

edge of the service area boundary ("SAB") contours must not cross the coastline at any point.

The signal strength at the outer edge of a land-based cellular contour is -99 dBm. Because the outer edge of land-based cellular contours occurs at the coastline, the land-based providers' signal strength is weakest at beachfront areas. This is a problem because populated beachfront areas often have many high-rise buildings and other features that obstruct the cellular signal. Cellular network engineers know that to provide reliable cellular service inside or behind tall buildings and in the face of the types of obstructions found in beachfront areas, the network needs to produce a minimum signal strength of -75 dBm. However, under both the current and proposed FCC rules, land-based cellular providers cannot produce such a signal strength at beachfront areas without extending SAB contours into the Gulf of Mexico, and the signal to these areas is unavoidably weak. As a result, customers near the Gulf of Mexico may experience no service, dropped calls, or—when they do receive service—may incur expensive roaming charges on the stronger water-based carrier's network.

The most obvious way to address the problems faced by land-based cellular providers adjacent to the Gulf is to enable such carriers to extend their 32 dBu SAB contours into the Gulf of Mexico. However, as GTE and other land-based carriers have explained in previous comments, the B-side Gulf-based provider, Bachow/Coastel, has been unwilling to negotiate reasonable mutual extension agreements.⁴ In particular,

⁴ See GTE Reply Comments at 6 n.10; Comments of 360° Communications Company at 5 (filed July 2, 1997). At present, Bachow's protected cellular geographic service area ("CGSA") consists of the entire GMSA, even though Bachow's SAB contours do not cover that entire area.

Bachow/Coastel has insisted upon equalizing the signal strength of the Gulf- and water-based providers at the shore line—an arrangement that, as discussed *infra*, would ensure that many customers initiating calls in beachfront areas are captured by the Gulf provider's network. Moreover, Bachow/Coastel has refused to even consider lowering the outrageous roaming rate it applies to calls it captures.⁵ Indeed, Bachow/Coastel's entire operating philosophy appears geared towards capturing as much land-based traffic and roaming fees as possible, rather than providing seamless Gulf-based cellular service to its customers.

Similarly, the Commission's proposed rules for the Gulf of Mexico would not enable land-based providers to create extensions into the Gulf in most areas. Under the current proposal, with the 12-mile Coastal Zone, Gulf providers' CGSA would consist of the areas where they show an SAB contour. However, because the Gulf providers are either currently entrenched or are seeking to become entrenched near the coastline throughout the Gulf (except in Florida where no oil platforms exist), the proposed rules will not likely create any significant unserved area. As a result, it is highly unlikely that land-based providers will be able to improve their beachfront signal strength by applying to extend SAB contours into unserved Gulf waters.

GTE has first-hand experience that neither the current rules, nor the rules proposed in the Second FNPRM, will ensure reliable and ubiquitous cellular coverage for land-based subscribers. Recently, in order to conform its service with the existing

⁵ GTE understands that Bachow/Coastel's rate is \$3.00 per minute, plus \$0.79 per minute toll charge from Louisiana, plus a \$3.00 per day roaming charge. Thus, the first minute each day would cost \$6.79, with each additional minute rated at \$3.79.

cellular rules, GTE was required to pull back the SAB contours for several of its cell sites in the Mobile, Alabama MSA with extensions into the Gulf of Mexico. The net result of complying with the Commission's rules was to contravene the public interest, as cellular service was significantly and—in GTE's opinion—inexcusably curtailed for customers along beachfront areas.

The detrimental result of this pull back is best described by GTE's cellular customers, who wrote, called, and otherwise expressed their extreme dissatisfaction with the reduced cellular service.⁶ These customers do not understand that the poor service within GTE's service area is a direct result of the Commission's rules, nor are they willing to accept poor service and remain customers because the situation is out of GTE's control. After GTE turned down the power for these cell sites, GTE estimates that there were approximately two hundred cancellations of service due to lack of coverage during the month of April 2000. Descriptions of customers by field salespeople range from "very upset" to "irate."

The inability of GTE to provide reliable service coverage in Mobile has detrimental effects for business operations as well as personal safety. Time and again, customers indicated that the loss of service resulting from the required pull back (particularly in the Gulf Shores area) was interfering with their ability to conduct business and in fact was resulting in lost business opportunities. One business

⁶ Attached hereto as Exhibit A are handwritten notes compiled by GTE retail store employees describing their complaints and service cancellations in light of the pullbacks. These are only a sampling of the calls and correspondence received by GTE in light of its pullback of SAB contours to eliminate extensions into the Gulf of Mexico. Additional samples can be supplied at the Commission's request.

operator who had been a subscriber on GTE's system since 1985 canceled service because he could no longer use his phone in the areas in which he worked.⁷ On the personal safety side, more than one family indicated they had obtained a cellular phone due to a family member's poor health—and now the phone is "worthless" to them because it no longer receives service where needed.

The problems with lack of service extend to public safety offices. For example, due to the reduced coverage associated with the contour pull backs, the Gulf Shores Police Department canceled its 25 lines. In the way of explanation, the Department indicated that it could no longer use GTE's cellular service to replace radios in an emergency.⁸ The Orange Beach Police Department has advised the Commission that the cell site pull backs will undermine its ability to provide mutual aid in the Gulf Shores area, especially during hurricane season.⁹ Likewise, the City of Orange Beach Fire Department advised GTE it could no longer use GTE phone in the Gulf Shores area to assist the Gulf Shores Fire Department.¹⁰ Just as public safety officers have trouble communicating, GTE subscribers attempting to place 911 calls may find themselves unable to do so.

These examples are only a small sampling that demonstrate that, as a real life

⁷ See Letter to GTE Wireless from Vic Roberts, Roberts Air Conditioning (dated Apr. 10, 2000), included in Exhibit A.

⁸ See Exhibit A.

⁹ See E-mail to FCC info@fcc.gov from Robert L. Vinson, Chief of Police, Orange Beach Police Department (dated Mar. 29, 2000), attached as Exhibit B.

¹⁰ See Exhibit A.

matter, neither the current Commission rules nor the proposed rules permit land-based cellular carriers to function effectively or to meet customers' needs for reliable cellular service throughout their licensed CGSAs. This current situation for land-based cellular service providers in the Gulf is unacceptable. Cellular carriers in land-based markets adjacent to the Gulf should and must be able to provide reliable cellular service to their customers, within the entirety of their service areas, including all the shoreline.

B. Under the Current and Proposed FCC Rules, Gulf-Based Providers Have Both the Ability and the Incentive To Create Unserved Area in Land Markets and Extend Contours Onto the Land To Capture Land-Based Customers.

As discussed above, Bachow/Coastel appears intent upon using the FCC's rules as a means of providing service to as many land-based users as possible. Given the disparity between the number of customers on land and in the Gulf, the Gulf-based providers have an economic incentive to provide service to as many land-based customers as possible. In fact, the FCC's rules enable Gulf carriers to force land-based cellular providers to leave parts of the land market unserved. The Gulf carriers are then able to file applications to fill-in the unserved area and capture land-based customers.

As noted above, GTE and other land-based carriers are authorized to provide service up to and including the coastline, but are prohibited from extending into the Gulf without the permission of the appropriate Gulf carrier.¹¹ Bachow/Coastel, however,

¹¹ See In Re Applications of Petroleum Communications, Inc. and Gulf Cellular Associates, For New Domestic Cellular Radio Telecommunications Service Systems In the Gulf of Mexico, File Nos. 30003-CL-P-84 and 30001-CL-P-84, *Order on Reconsideration*, 1 FCC Rcd 511, 513 (1986). In a currently pending proceeding, GTE has challenged the Enforcement Bureau's interpretation of the position of the coastline demarcating the Mobile, Alabama MSA boundary. See Bachow/Coastel, L.L.C.,

effectively refuses to negotiate extensions that would allow GTE to extend SAB contours into the Gulf of Mexico, even in areas where it has no SAB contour. Because the coastline is irregular and because it is not possible for SAB contours terminating at the coastline to show SAB contours covering the entire coastline, the FCC's rules and Bachow/Coastel's tactics result in unserved area being created along the shoreline. These unserved areas are then subject to unserved area applications by Gulf carriers.

Recently, GTE has been witness to an effort by Bachow/Coastel to employ this tactic in GTE's Mobile, Alabama MSA. Bachow/Coastel demanded that GTE pull back contours associated with three cell sites from any extension into the Gulf of Mexico, and pursued a formal complaint in order to obtain the relief.¹² Bachow/Coastel insisted on continuing to prosecute its complaint even after GTE took action to eliminate all overlap between GTE's cell sites and Bachow/Coastel's Gulf cell site.¹³ Moreover, Bachow/Coastel recently has demanded that GTE pull back other SAB contours from the Gulf even though those cell sites do not overlap with any Bachow/Coastel contour.¹⁴ In order to pull back the contested contours fully within the coastline as defined to date

Complainant v. GTE Wireless of the South, Inc., Defendant, File No. WB/ENF-F-98-005, *Order*, DA 00-420 (Chief, Enforcement Bureau, rel. Feb. 29, 2000) ("Enforcement Bureau Order"); Bachow/Coastel, L.L.C., Complainant, v. GTE Wireless of the South, Inc., Defendant, File No. WB/ENF-F-98-005, Application for Review (filed Mar. 16, 2000).

¹² See Enforcement Bureau Order.

¹³ See Bachow/Coastel, L.L.C., Complainant, v. GTE Wireless of the South, Inc., Defendant, File No. WB/ENF-F-98-005, Section 1.720(g) Update (filed Apr. 5, 2000).

¹⁴ These demands only serve to harm the public interest by denying land-based customers cellular service.

by the Commission, GTE had to reduce power at cell sites and shrink the SAB contour associated with each such cell site. The result was to create unserved area within GTE's previously authorized CGSA. Within days of this unserved area being created, Bachow/Coastel filed a Phase II unserved area application proposing coverage of this area.¹⁵ If there previously had been any doubt as to the motives of the Gulf carriers, this incident should erase it.

C. The Current and Proposed Cellular Rules Establish an Uneven Playing Field Between Cellular and Other CMRS Providers.

The Commission's current and proposed cellular rules for the Gulf of Mexico embed an uneven competitive playing field between land-based cellular carriers and PCS and other CMRS providers. As GTE has explained in prior comments, the boundaries for PCS providers are understood to be along county or parish line boundaries.¹⁶ These boundaries typically extend well into Gulf of Mexico waters. PCS licensees in land markets thus are not confronted with the limitations facing cellular systems adjacent to the Gulf, creating a competitive disparity based on differential regulatory treatment of similar services.¹⁷

¹⁵ Bachow/Coastel, L.L.C. Application for Wireless Telecommunications Bureau Radio Service Authorization, FCC Form 601, proposing modifications to call sign KNKA412, file no. 0000113774 (filed Apr. 21, 2000).

¹⁶ See GTE Reply Comments at 8-9.

¹⁷ Such competitive disparity runs contrary to the Commission's CMRS regulatory parity policies. See, e.g., In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act—Regulatory Treatment of Mobile Services, *Second Report and Order*, 9 FCC Rcd 1411 (1994).

II. GTE ENDORSES THE ALLTEL PROPOSAL FOR FACILITATING THE PROVISION OF CELLULAR SERVICE IN THE GULF

ALLTEL is presenting a proposal in its supplemental comments being filed today that GTE endorses as addressing the concerns GTE has repeatedly raised about ensuring that land-based carriers have a reasonable opportunity to provide reliable service throughout their entire authorized service area. Specifically, ALLTEL is proposing that land-based and Gulf-based carriers both be permitted to establish contours into the Coastal Zone as their cell sites permit and consistent with the standards of good engineering practice. ALLTEL's proposal contemplates the following provisions to guide implementation of the basis precept:

- Neither carrier would have interference protection in the Coastal Zone, meaning that neither carrier would have the right to prevent capture as defined in Section 22.911(d) of the Commission's Rules.
- Frequency coordination between land-based and Gulf-based carriers would be mandatory.
- For land-based carriers, the CGSA boundary would remain at the coastline, as defined to include barrier islands. For Gulf carriers, the CGSA would begin at the border of the "Exclusive Zone" as proposed by the Commission (*i.e.*, 12 miles from the coastline).
- Gulf carriers could initiate service, discontinue service, or reinitiate service to particular platforms in the Gulf at any time, subject to frequency coordination obligations in the Coastal Zone.
- Operations in the Coastal Zone would be limited to Gulf-based carriers and land-based carriers with systems operating on the Gulf Coast, and unserved areas would not be licensed via competitive bidding.

GTE believes, as discussed below, that adoption of this proposal would resolve many of the problems confronting cellular subscribers in areas near the Gulf and would further the public interest and the Commission's cellular licensing goals.

The Commission has shown a commitment to ensuring that its cellular licensees are permitted the opportunity to provide reliable cellular service in their authorized areas of operation.¹⁸ Based upon the wealth of comments, *ex parte* presentations, and other supporting materials the Commission has received to date, the Commission must be well aware of the fact that the current rules—and the proposed rules as described three years ago, when the Second FNPRM was released—do not permit land-based providers to provide reliable cellular service within their licensed market areas. By implementing the ALLTEL proposal, the Commission will help to ensure that members of the public will be able to obtain the level of cellular service needed for their business purposes and in managing their personal lives.

As described in Section I above, GTE has concrete evidence that cellular customers along the coastline are not receiving reliable cellular service. After the pull back of several SAB contours, GTE has experienced a flood of customer complaints and cancellations. Permitting extensions by land-based carriers into the Coastal Zone will allow licensees to operate at power levels necessary to meet requirements throughout the market to provide satisfactory service to customers along beachfront areas and customers who work or live in the tall buildings that line the shore.

¹⁸ See In the Matter of Amendment of Part 22 of the Commission's Rules To Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and To Modify Other Cellular Rules, *Second Report and Order*, 7 FCC Rcd 2449 (rel. Apr. 9, 1992) (adopting new formula for determining CGSAs and noting that the new formula is in response to comments that reliable cellular service was provided with a lower field strength); see *Petroleum Communications, Inc. v. FCC*, 22 F.3d 1164, 1167 (D.C. Cir. 1994) ("In April 1992, the FCC released regulations setting forth a new mathematical formula to redefine CGSA boundaries to more closely approximate areas of actual reliable service.")

The ALLTEL plan would address many of the concerns voiced by industry members in an attempt to reach a consensus for Gulf licensing policies. GTE participated in meetings with Gulf-based cellular providers, in an attempt to reach a compromise solution to the issues in the Gulf of Mexico. While no compromise solution was agreed upon, it was clear from those in attendance at the meetings that the issue that land-based providers cared about most was the ability to provide reliable cellular service to land-based customers throughout their licensed service area. It was also evident from these meetings that the issue the Gulf-based providers cared about most was the continued ability to be mobile, *i.e.*, to be able to close down a cell site on a defunct oil rig and to open a site on a new rig without forfeiting CGSA.

ALLTEL's proposal satisfactorily addresses the concerns of both land-based and water-based carriers. First, allowing SAB contour extensions into the Gulf of Mexico will ensure that land-based transmitters may emit strong enough signals to provide reliable cellular service to customers along the coastline. With the extensions into the Coastal Zone proposed by ALLTEL, these customers would receive strong signals with minimal interference. Additional benefits to land-based customers would include improved 911 service coverage; improved cellular service, and therefore increased customer satisfaction, along the shoreline; and leveling of the competitive playing field for CMRS providers in the Gulf of Mexico area.

Second, the proposed solution serves the interests of water-based carriers by permitting them to serve their constituent customers reliably.¹⁹ Gulf carriers would be

¹⁹ Of course, to the extent that a Gulf carrier has as a significant objective trying to capture as much service area on land as possible, the ALLTEL proposal would thwart

permitted to relocate freely and to follow oil rigs as necessary to provide satisfactory cellular service. There would be no encroachment by third parties upon unserved areas in the GMSA, and no need for Phase II unserved area applications. Contrary to the proposal discussed in the next section, the ALLTEL recommendation also eliminates the potential for unwitting land-based carriers to invest in water-based sites that are subject to reclamation at any time.

III. THE JOINT PROPOSAL DEVELOPED BY PETROCOM AND U.S. CELLULAR IS UNACCEPTABLE.

Petroleum Communications, Inc. ("PetroCom") and U.S. Cellular Corp. ("U.S. Cellular") have developed a joint proposal ("Joint Proposal") as an alternative "solution" to the Commission's proposed rules. This proposal has been discussed by the Gulf carriers as well as by adjacent land licensees. GTE understands that PetroCom and U.S. Cellular will be submitting this proposal in their comments. As discussed below, the Joint Proposal does little to ensure ubiquitous cellular coverage in the Gulf, nor does it even begin to alleviate the conflicts between water-based and land-based providers. For this reason, the Joint Proposal contravenes the public interest and should not be adopted.

A. The Commission Should Not Permit Both Land and Gulf Carriers To Operate at the Coastline With SAB Contours Modeled Upon the Land-Based Formula Set Forth in Section 22.911(a)(1).

The Joint Proposal asks the Commission to permit both land-based and water-based carriers to operate at the coastline boundary using the 32 dBu-based formula for

implementation of this goal.

calculating SAB contours, as that formula is provided in Section 22.911(a)(1) of the Commission's Rules.²⁰ Section 22.911(a)(1) currently applies to land-based cellular carriers only. Adoption of this proposal will only create additional cellular customer dissatisfaction in the Gulf, while unfairly shifting the competitive playing field in favor of Gulf-based cellular providers.

Permitting both land-based and water-based carriers to operate with SAB contours at the coastline, based upon the 32 dBu formula, fails to take into account the fact that radio signals propagate further over water. Radio signals may travel unimpeded over water; by contrast, radio signals that travel over land are subject to interference and attenuation from obstacles, such as buildings, trees, and terrain. Consequently, permitting water-based carriers to use a land-based formula for operations at the market boundary will result in water-based carriers having a stronger signal in parts of the land-based carrier's market. The presence of strong signals from water-based carriers at the shoreline causes interference with land-based signals and impedes land-based providers' ability to provide reliable coverage along the beachfront areas. The end result is that cellular customers subscribing to land-based service will incur roaming charges on the water-based carriers' networks. To date, these roaming charges are significantly higher than charges for land-based service; unsurprisingly, incurring these roaming charges generates much customer dissatisfaction.

Water-based carriers therefore must not be permitted to operate at the boundary using the 32 dBu-based formula.

²⁰ 47 C.F.R. § 22.911(a)(1).

B. The Commission Should Not Adopt the Proposal To Permit Equalization of Signal Strength at the Market Boundary.

The Joint Proposal suggests that land-based and water-based carriers be permitted to equalize signal strength at the market boundary; in order to do so, PetroCom and U.S. Cellular suggest that both land and water-based carriers may operate at an effective radiated power (ERP) higher than the strength resulting from the 32 dBu-based formula set forth in Section 22.911(a)(1). The Joint Proposal also proposes that SAB extensions that result from the 32 dBu-based formula be permitted without consent if necessary to equalize signal strength at the boundary, although these extensions would not be protected as part of the carrier's CGSA. As with the suggestion that water-based carriers be permitted to use the land-based formula at the boundary, this proposition would treat dissimilar carriers (water-based and land-based) similarly, in a way that disadvantages land-based carriers while simultaneously harming the public interest.

GTE opposes permitting carriers to equalize signal strength at the border because it will have the effect of enabling water-based carriers to capture subscriber traffic in the land-based carrier's CGSA, contrary to the Commission's rules as well as to the public interest. As described above, land-based formulas are unsuitable for water-based cellular service. The land-based formula takes into account the fact that land-based signals degenerate more quickly because of obstructions, such as the buildings that typically line the coastline in populated areas. Under the current formulas, which differ for land and water-based carriers, if both land-based and water-

based signals attenuate at the market boundary, the land-based cellular signal strength will be 21 dB greater than the water-based signal.

Notwithstanding this signal strength advantage, GTE customers still frequently incur roaming charges on the Gulf carrier network. Understandably, these customers do not comprehend why they are incurring exorbitant roaming charges while using their cellular phone in GTE's delineated service area. Land-based carriers such as GTE are often put in the position of forgiving these roaming charges on customers' bills, in order to maintain customer satisfaction. By recommending a "solution" that eliminates the current signal strength disparity, therefore, the U.S. Cellular and PetroCom Joint Proposal increases the likelihood that Gulf carriers will capture land-based subscriber traffic. Such a "solution" would create additional problems for the customers of cellular licensees in the Gulf and would be no solution at all.

C. The Coastline Should Only Be Retained as the Market Boundary Between Gulf and Land-based Carriers If the ALLTEL Proposal Is Adopted.

The Joint Proposal stipulates that the Commission should retain the coastline as the market boundary between the Gulf of Mexico Service Area and the land-based service areas. So long as the Commission adopts the proposal set forth by ALLTEL, then GTE supports retaining the coastline as the market boundary. If, however, the Commission does not adopt policies permitting land carriers to extend cell sites beyond the market boundary on some sort of reasonable basis, then GTE does not support

defining the market boundary based on the coastline, for the reasons GTE has previously set forth in its pleadings in this docket.²¹

The Joint Proposal also recommends that the Commission publish geographic coordinates that clearly depict the boundary between the GMSA and the land-based markets. GTE agrees that, whether the Commission adopts the solution proposed by ALLTEL or not, the publication of geographic coordinates clearly establishing the market boundaries would serve the best interests of all parties and minimize unnecessary disputes.

D. GTE Generally Supports Retaining the Requirement That a Carrier Cannot Place a Transmitter Outside Its Market Area Without the Adjacent Licensee's Consent

The Joint Proposal would retain the Commission's current rule that neither land-based nor water-based carriers may place a transmitter in the other's market without consent. GTE supports this aspect of the proposal.

E. GTE Opposes the Proposal To Grant the Gulf Carriers Another Five Years To Build Out and To Give Them *De Facto* Reclamation Rights *Vis-à-Vis* Extensions Into the Gulf by Land-Based Carriers

PetroCom and U.S. Cellular would like to provide water-based carriers an additional five years to build out their markets; only after another five years after the conclusion of this proceeding has elapsed may land-based cellular providers attempt to cover these unserved areas. Absent from this aspect of the proposal is an understanding of the way in which water-based carriers operate: they do not "build out"

²¹ See, e.g., GTE Reply Comments at 3-11; GTE Comments at 8-11.

their markets in a manner similar to land-based carriers. As PetroCom itself has explained to the Commission, water-based carriers do not tend to establish permanent cell sites. Instead, their cell sites are transitory in nature and follow drilling platforms from location to location.²² Based upon these premises, then, it is inevitable that there will be some coverage gaps in the Gulf waters. Why cellular customers must wait for five additional years before they may receive cellular service is unfathomable and insupportable.

Not only does the Joint Proposal “recommend” a five-year build out delay, but PetroCom and U.S. Cellular then go on to suggest that, after the five-year timeframe has lapsed and land-based carriers are serving areas in the Gulf, water-based carriers may “reclaim” these areas at will. Such a suggestion is remarkable in light of the fact that PetroCom has made it clear that it would follow drilling sites from location to location, thus leaving areas served and then unserved and *vice versa*, as oil platforms relocate. PetroCom’s and U.S. Cellular’s “generous” offer that land-based carriers be permitted to serve temporarily vacant areas is disingenuous. Basically, this aspect of the Joint Proposal does nothing more than assure land-based carriers of stranded investments. Unsurprisingly, land-based carriers are unlikely to find this a wise allocation of their money. There are no incentives for land-based carriers to make such a large investment in operations that are revocable at the whim of a competing cellular provider. In addition, from a practical standpoint, the “reclamation” provision of the Joint Proposal would create enormous customer confusion about coverage of service areas.

²² Second FNPRM at ¶ 19 (citing Comments of Petroleum Comms., Inc., to the *Further Notice of Proposed Rule Making*, CC Docket 90-6, p. 9 (filed Jan. 16, 1992)).

F. The Joint Proposal Declines To Address the Significant Problem of Roaming Rates.

GTE notes that the Joint Proposal omits any discussion of roaming rates in the Gulf of Mexico. As explained above, land-based cellular subscribers are often subject to exorbitant roaming rates, because the propagation characteristics over water may translate into water-based carriers' having a stronger signal along the coastline. Not surprisingly, customers become quite upset when these roaming rates appear on their cellular service bills. GTE has been unsuccessful in its efforts to negotiate more reasonable roaming rates with Gulf-based carriers.

The Joint Proposal not only fails to address the problem of roaming rates, but would magnify the problem by permitting water-based carriers to increase their signal strength along the market boundary, thus increasing the likelihood of subscriber capture. In order to alleviate this problem, GTE recommends, first, that the Commission take steps to require that Gulf carriers charge reasonable roaming rates, including possibly conducting an investigation of these rates. Second, before adopting any Gulf "solution" that purports to strike a compromise between the interests of land-based and water-based carriers, the Commission must require that mutually reasonable roaming rates be negotiated as part of the solution.

IV. CONCLUSION

GTE supports the Commission in its review of cellular licensing policies in the Gulf of Mexico. Conflicts between land-based and water-based cellular providers in the Gulf have continued unabated since the initial release of the Second FNPRM, with customers, unfortunately, bearing the brunt of the consequences. The Commission's